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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR- 5664-N-01]

Notice of Certain Operating Cost Adjustment Factors for 2013

AGENCY: Office of the Assistant Secretary for Housing – Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice establishes operating cost adjustment factors (OCAFs) for project based assistance contracts for eligible multifamily housing projects having an anniversary date on or after February 11, 2013. OCAFs are annual factors used to adjust Section 8 rents renewed under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA).

EFFECTIVE DATE: February 11, 2013.

FOR FURTHER INFORMATION CONTACT: Stan Houle, Housing Program Manager, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410; telephone number 202-402-2572 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

I. OCAFs

Section 514(e)(2) of MAHRA (42 U.S.C. 1437f note) requires HUD to establish guidelines for rent adjustments based on an OCAF. The statute requiring HUD to establish

OCAFs for Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA) (12 U.S.C. 4101, et seq.) projects and projects with contract renewals or adjustments under section 524(b)(1)(A) of MAHRA is similar in wording and intent. HUD has therefore developed a single factor to be applied uniformly to all projects utilizing OCAFs as the method by which renewal rents are established or adjusted.

LIHPRHA projects are low-income housing projects insured by the Federal Housing Administration (FHA). LIHPRHA projects are primarily low-income housing projects insured under section 221(d)(3) below-market interest rate (BMIR) and section 236 of the National Housing Act, respectively. Both categories of projects have low-income use restrictions that have been extended beyond the 20-year period specified in the original documents, and both categories of projects also receive assistance under section 8 of the U.S. Housing Act of 1937 to support the continued low-income use.

MAHRA gives HUD broad discretion in setting OCAFs, referring, for example, in sections 524(a)(4)(C)(i), 524(b)(1)(A), 524(b)(3)(A) and 524(c)(1) simply to “an operating cost adjustment factor established by the Secretary.” The sole limitation to this grant of authority is a specific requirement in each of the foregoing provisions that application of an OCAF “shall not result in a negative adjustment.” Contract rents are adjusted by applying the OCAF to that portion of the rent attributable to operating expenses exclusive of debt service.

The OCAFs provided in this notice and applicable to eligible projects having a project based assistance contracts anniversary date of on or after February 11, 2013, are calculated using the same method as those published in HUD’s 2012 OCAF notice published on October 26, 2011 (76 FR 66319). Specifically, OCAFs are calculated as the sum of weighted average cost changes for wages, employee benefits, property taxes, insurance, supplies and equipment, fuel oil,

electricity, natural gas, and water/ sewer/trash using publicly available indices. The weights used in the OCAF calculations for each of the nine cost component groupings are set using current percentages attributable to each of the nine expense categories. These weights are calculated in the same manner as in HUD's October 26, 2011, notice. Average expense proportions were calculated using three years of audited Annual Financial Statements from projects covered by OCAFs. The expenditure percentages for these nine categories have been found to be very stable over time, but using three years of data increases their stability. The nine cost component weights were calculated at the state level, which is the lowest level of geographical aggregation with enough projects to permit statistical analysis. These data were not available for the Western Pacific Islands, so data for Hawaii were used as the best available indicator of OCAFs for these areas.

The best current price data sources for the nine cost categories were used in calculating annual change factors. State-level data for fuel oil, electricity, and natural gas from Department of Energy surveys are relatively current and continue to be used. Data on changes in employee benefits, insurance, property taxes, and water/sewer/trash costs are only available at the national level. The data sources for the nine cost indicators selected used were as follows:

- Labor Costs: First quarter, 2012 Bureau of Labor Statistics (BLS) ECI, Private Industry Wages and Salaries, All Workers (Series ID CIU2020000000000I) at the national level and Private Industry Benefits, All Workers (Series ID CIU2030000000000I) at the national level.
- Property Taxes: Census Quarterly Summary of State and Local Government Tax Revenue – Table 1 <http://www2.census.gov/govs/qtax/2012/q1t1.xls>. 12-month property taxes are computed as the total of four quarters of tax receipts for the period from April

through March. Total 12-month taxes are then divided by the number of households to arrive at average 12-month tax per household. The number of households (occupied housing units) is taken from the estimates program at the Bureau of the Census.

http://www.census.gov/hhes/www/housing/hvs/historic/files/his_tab8a_v2010_web.xls.

- Goods, Supplies, Equipment: May 2011 to May 2012 Bureau of Labor Statistics (BLS) Consumer Price Index, All Items Less Food, Energy and shelter (Series ID CUUR0000SA0L12E) at the national level.
 - Insurance: May 2011 to May 2012 Bureau of Labor Statistic (BLS) Consumer Price Index, Tenants and Household Insurance Index (Series ID CUUR0000SEHD) at the national level.
 - Fuel Oil: The Energy Information Agency Retail Price of No. 2 Fuel Oil to Residential Consumers report has been suspended as of May, 2011; see http://www.eia.gov/oil_gas/petroleum/survey_forms/petforms_notice.html for more information. In its place, the U.S. Weekly Heating Oil and Propane Prices report has been substituted. Weekly residential heating oil prices in cents per gallon excluding taxes for the period from October 3, 2011 through March 19, 2012 are compared to the period from October 4, 2010 through March 14, 2012. For the States with insufficient fuel oil consumption to have separate estimates, the relevant regional Petroleum Administration for Defense Districts (PADD) change between these two periods is used; if there is no regional PADD estimate, the U.S. change between these two periods is used.
- http://www.eia.gov/dnav/pet/pet_pri_wfr_a_EPD2F_prs_dpgal_w.htm.

- Electricity: Energy Information Agency, February 2012 “Electric Power Monthly” report, Table 5.6.B.
http://www.eia.gov/electricity/monthly/current_year/february2012.pdf.
- Natural Gas: Energy Information Agency, Natural Gas, Residential Energy Price, 2010-2011 annual prices in dollars per 1,000 cubic feet at the state level. Due to EIA data quality standards several states were missing data for one or two months in 2011; in these cases, data for these missing months were estimated using data from the surrounding months in 2011 and the relationship between that same month and the surrounding months in 2010. http://www.eia.gov/dnav/ng/ng_pri_sum_a_EPG0_PRS_DMcf_a.htm.
- Water and Sewer: May 2011 to May 2012 Consumer Price Index, All Urban Consumers, Water and Sewer and Trash Collection Services (Series ID CUUR0000SEHG) at the national level.

The sum of the nine cost component percentage weights equals 100 percent of operating costs for purposes of OCAF calculations. To calculate the OCAFs, state-level cost component weights developed from AFS data are multiplied by the selected inflation factors. For instance, if wages in Virginia comprised 50 percent of total operating cost expenses and increased by 4 percent from 2010 to 2011, the wage increase component of the Virginia OCAF for 2013 would be 2.0 percent ($50\% * 4\%$). This 2.0 percent would then be added to the increases for the other eight expense categories to calculate the 2013 OCAF for Virginia. The OCAFs for 2013 are included as an Appendix to this Notice.

II. MAHRA and LIHPRHA OCAF Procedures

MAHRA, as amended, created the Mark-to-Market Program to reduce the cost of federal housing assistance, enhance HUD's administration of such assistance, and ensure the continued

affordability of units in certain multifamily housing projects. Section 524 of MAHRA authorizes renewal of Section 8 project-based assistance contracts for projects without restructuring plans under the Mark-to-Market Program, including projects that are not eligible for a restructuring plan and those for which the owner does not request such a plan. Renewals must be at rents not exceeding comparable market rents except for certain projects. As an example, for Section 8 Moderate Rehabilitation projects, other than single room occupancy projects (SROs) under the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.), that are eligible for renewal under section 524(b)(3) of MAHRA, the renewal rents are required to be set at the lesser of: (1) the existing rents under the expiring contract, as adjusted by the OCAF; (2) fair market rents (less any amounts allowed for tenant-purchased utilities); or (3) comparable market rents for the market area.

LIHPRHA (see, in particular, section 222(a)(2)(G)(i), 12 U.S.C. 4112 (a)(2)(G) and HUD's regulations at 24 CFR 248.145(a)(9)) requires that future rent adjustments for LIHPRHA projects be made by applying an annual factor, to be determined by HUD to the portion of project rent attributable to operating expenses for the project and, where the owner is a priority purchaser, to the portion of project rent attributable to project oversight costs.

III. FINDINGS AND CERTIFICATIONS

Environmental Impact

This issuance sets forth rate determinations and related external administrative requirements and procedures that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this program is 14.187.

Dated: September 21, 2012

Carol J. Galante
Acting Assistant Secretary for Housing-
Federal Housing Commissioner

[FR-5664-N-01]

APPENDIX

OPERATING COST ADJUSTMENT FACTORS FOR 2013

Alabama	2.4
Alaska	3.1
Arizona	1.9
Arkansas	2.2
California	2.3
Colorado	2.1
Connecticut	1.5
Delaware	2.2
District of Columbia	1.7
Florida	2.3
Georgia	2.9
Hawaii	5.5
Idaho	1.8
Illinois	1.3
Indiana	2.4
Iowa	1.7
Kansas	2.2
Kentucky	2.6
Louisiana	2.1
Maine	2.2
Maryland	1.5
Massachusetts	1.8
Michigan	1.7
Minnesota	2.0
Mississippi	2.1
Missouri	2.6
Montana	2.6
Nebraska	2.0
Nevada	1.5
New Hampshire	2.0
New Jersey	1.6
New Mexico	2.1
New York	2.1
North Carolina	2.2
North Dakota	2.3
Ohio	1.9
Oklahoma	2.0
Oregon	2.4
Pacific Islands	5.4
Pennsylvania	2.3

Puerto Rico	2.3
Rhode Island	1.2
South Carolina	2.3
South Dakota	2.5
Tennessee	2.4
Texas	1.7
Utah	2.2
Vermont	3.3
Virgin Islands	2.7
Virginia	2.3
Washington	2.4
West Virginia	2.5
Wisconsin	1.7
Wyoming	2.5
U.S. Average	2.1

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